

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Kenneth Culbert)
Dist. 8, Map 27J, Group A, Control Map 27O,) Carter County
Parcel 15)
Residential Property)
Tax Year 2001)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$11,600	\$42,200	\$53,800	\$13,450

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on April 10, 2007 in Elizabethton, Tennessee. In attendance at the hearing were Kenneth Culbert, the appellant, Ginger Holdren, a local realtor, Gerald Holly, Carter County Assessor of Property, and staff member Ronnie Taylor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 200 x 170 lot improved with a mobile home located on Highway 19E in Elizabethton, Tennessee.

The taxpayer contended that the appraisal of the mobile home should be reduced to \$19,500. In support of this position, the taxpayer argued that he purchased subject mobile home from a bank approximately two years ago for \$19,500. Mr. Culbert testified that he was the high bidder and was motivated by the fact he wanted something on subject lot.

The taxpayer offered into evidence the testimony of Ms. Holdren to support his contention that the \$19,500 purchase price was indicative of market value. Ms. Holdren testified that she had purchased two similar mobile homes from a local bank for \$11,000 and \$16,000 for the same reason Mr. Culbert bought the mobile home in question.

The taxpayer also contended that the current appraisal of subject mobile home does not achieve equalization. In support of this contention, Mr. Culbert introduced the assessor's \$33,216 appraisal of what he asserted was a superior mobile home.

The assessor contended that subject property should remain valued at \$53,800. In support of this position, the property record card was introduced into evidence.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic

and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should remain valued at \$53,800 based upon the presumption of correctness attaching to the decision of the Carter County Board of Equalization.

Since the taxpayer is appealing from the determination of the Carter County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the State Board of Equalization has historically refused to consider foreclosure sales or auctions as indicative of market value. See, e.g., *Armed Services Mutual Benefit Assoc.* (Assessment Appeals Commission, Davidson Co., Tax Years 1991 & 1991); *William J. Groom* (Assessment Appeals Commission, Davidson Co., Tax Year 1991), *George W. Hussey* (Assessment Appeals Commission, Davidson Co., Tax Year 1992) and *D.H. & D.M. MacDermid* (Assessment Appeals Commission, Marshall Co., Tax Year 1991).

The administrative judge finds the fact such purchases do not typically reflect market value was aptly illustrated in *Sun Communities Operating LTP* (Administrative Judge, Montgomery Co., Tax Year 2006). In that case, the assessor of property introduced a spreadsheet summarizing 21 multiple sale of mobile homes. The spreadsheet starkly demonstrated that the mobile homes purchased following foreclosure, bankruptcy etc. sold for significantly less than the same mobile homes commanded when no such elements of distress were involved.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.¹ The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

¹ See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

The assessor’s recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$11,600	\$42,200	\$53,800	\$13,450

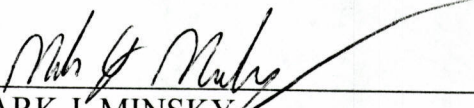
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 20th day of April, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Kenneth Culbert
Gerald Holly, Assessor of Property